

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY ISLAMABAD

C O N F I D E N T I A L STATE 142242

E.O. 11652: GDS

TAGS: SHUM, PK

SUBJECT: HUMAN RIGHTS: COUNTRY EVALUATION PLAN FOR PAKIS-
TAN

REF: STATE 133681

1. THERE FOLLOWS THE FIRST DRAFT OF A HUMAN RIGHTS COUNTRY
EVALUATION PLAN FOR PAKISTAN. AS PER REFTEL, EMBASSY
COMMENTS AND SUGGESTIONS ARE REQUESTED ASAP.

2. QUOTE:

A. CONDITION OF HUMAN RIGHTS

1. RESPECT FOR THE INTEGRITY OF THE PERSON

A- TORTURE: THE 1973 CONSTITUTION BANS TORTURE. TORTURE IS
SELDOM EMPLOYED IN POLITICAL CASES INVOLVING MEMBERS OF THE
ELITE. ALLEGATIONS OF TORTURE OF LESS PROMINENT POLITICAL
DETAINEES ARE MADE WITH SOME FREQUENCY, BUT NO CONSISTENT
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PATTERN IS DISCERNIBLE. TORTURE OF LOWER-CLASS DETAINEES
AND SUSPECTS IN CRIMINAL CASES IS ROUTINE. THIS ABUSE RE-
FLECTS HISTORICAL SOCIAL/ECONOMIC PATTERNS AND PRACTICES

PREVALENT IN THE SOCIETY AND AMONG POLICE BUT NOT ANY
OFFICIAL POLICY. NONETHELESS, THESE PRACTICES ARE OFFI-
CIALLY CONDONED AND OCCASIONALLY ENCOURAGED.

B- CRUEL, INHUMAN, OR DEGRADING PUNISHMENT: THESE ABUSES ARE PROHIBITED BY LAW AND REPORTEDLY ARE RARE IN PRACTICE. NONETHELESS, SEVERAL UNVERIFIED CASES HAVE BEEN REPORTED, INTER ALIA TO AMNESTY INTERNATIONAL.

C- ARBITRARY ARREST OR IMPRISONMENT: CONSTITUTIONAL PROTECTIONS HAVE YIELDED TO LEGISLATION BROUGHT INTO EFFECT BY THE EMERGENCY DECLARATION OF 1971. THE DEFENSE OF PAKISTAN RULES AND THE MAINTENANCE OF PUBLIC ORDER ORDINANCE, FOR EXAMPLE, PERMIT ARREST AND/OR PREVENTIVE DETENTION ON ILL-DEFINED GROUNDS. THE THIRD AMENDMENT TO THE CONSTITUTION PERMITS PREVENTIVE DETENTION FOR THREE MONTHS BEFORE A CASE MUST BE REFERRED TO A REVIEW BOARD. THE FIFTH AMENDMENT BARS BAIL BEFORE ARREST IN PREVENTIVE DETENTION CASES. IN MOST CASES, PREVENTIVE DETENTION IS REPORTEDLY OF BRIEF DURATION. IT IS DIFFICULT TO ASCERTAIN OR ESTIMATE THE NUMBER OF "POLITICAL PRISONERS". (EMBASSY'S BEST ESTIMATE WOULD BE WELCOME.)

D- DENIAL OF FAIR PUBLIC TRIAL: THE SUPPRESSION OF TERRORISM (SPECIAL COURT) ACT, 1975, AND THE CRIMINAL LAW AMENDMENT (SPECIAL COURT) ACT, 1976 ESTABLISH TRIBUNALS WHICH CAN FUNCTION IN CAMERA; THEY PLACE THE BURDEN OF PROOF OF INNOCENCE ON THE ACCUSED.

E- INVASION OF THE HOME: THIS ABUSE IS RARE BUT REPORTED IN POLITICAL CASES AND MORE COMMON IN CRIMINAL ONES.

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2. RESPECT FOR CIVIL AND POLITICAL LIBERTIES

A- FREEDOM OF THOUGHT, RELIGION, ASSEMBLY: THE MAINTENANCE OF PUBLIC ORDER ORDINANCE LIMITS AND PUNISHES PUBLIC SPEECH CALCULATED TO INFLAME SECTARIAN, COMMUNAL, ETHNIC, OR SOCIAL/ECONOMIC CLASS TENSIONS. THIS LAW CAN BE ENFORCED ARBITRARILY, SOMETIMES MONTHS AFTER THE ALLEGED OFFENSE. FREEDOM OF THE PRESS HAS BEEN STRENGTHENED IN RECENT WEEKS, BUT EMERGENCY LEGISLATION CAN BE INVOKED AGAINST PERIODICALS WHICH ALLEGEDLY JEOPARDIZE NATIONAL SECURITY OR TEND TO BRING INTO RIDICULE OR DISCREDIT THE GOVERNMENT, THE ARMED FORCES, OR OTHER COUNTRIES.

FREEDOM OF RELIGION IS GUARANTEED BY THE CONSTITUTION AND RESPECTED BY THE STATE.

FREEDOM OF ASSEMBLY WAS UNTIL RECENTLY RESTRICTED BY THE WIDESPREAD IMPOSITION OF SECTION 144 OF THE (BRITISH INDIA) CRIMINAL PROCEDURE CODE, BARRING PUBLIC ASSEMBLY

OF FOUR OR MORE PERSONS. THE ROUTINE USE OF MOSQUES FOR MASS MEETINGS EVADED THIS RESTRICTION.

B- FREEDOM OF MOVEMENT WITHIN PAKISTAN; FOREIGN TRAVEL AND EMIGRATION POLICIES: FREEDOM OF MOVEMENT IS RARELY CONSTRAINED, EXCEPT IN OCCASIONAL POLITICAL CASES. RESTRICTIONS ON THE RIGHT TO TRAVEL OR RESIDE ABROAD ARE RARE. NO PATTERN EXISTS. EMIGRATION IS REGULATED TO PROTECT WORKERS AND MAXIMIZE REMITTANCES.

C- DEMOCRATIC POLITICAL PROCESSES: THE CONSTITUTION PROVIDES FOR UNIVERSAL ADULT SUFFRAGE. AN ELECTION COMMISSION HAS ESTABLISHED DETAILED RULES DESIGNED TO ENSURE FAIR AND FREE ELECTIONS. THE RECENT DISTURBANCES HAVE REFLECTED WIDESPREAD POPULAR CONCERN THAT THE SPIRIT AND LETTER OF THE ELECTORAL RULES WERE VIOLATED IN THE MARCH 7 NATIONAL ASSEMBLY ELECTIONS. THE ELECTION COMMISSION, CONFIDENTIAL

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SOON TO BE RECONSTITUTED, FOUND EVIDENCE OF OFFICIAL INTERFERENCE IN SIX OF 200 CONSTITUENCIES.

3. GOVERNMENT POLICIES AND BASIC NEEDS

A- THE GOVERNMENT WAS ELECTED ON A PLEDGE TO PROVIDE "BREAD, CLOTHING, AND SHELTER" TO ALL. REFORM IN EDUCATION AND ADMINISTRATION AND CONSCIOUS EFFORTS TO LESSEN ECONOMIC DISPARITIES HAVE UIDENED OPPORTUNITIES FOR THE POOR. WITH U.S. ASSISTANCE, HEALTH CARE HAS BECOME MORE WIDELY AVAILABLE IN RURAL AREAS. THE RATION SHOP SYSTEM PROVIDES BASIC FOOD NEEDS AT CONTROLLED PRICES FOR THE URBAN POOR AND LOWER MIDDLE CLASSES. LAND REFORM HAS NOT RESULTED IN MUCH CHANGE IN OWNERSHIP PATTERNS BUT TENANCY REFORMS HAVE MARKEDLY INCREASED THE SECURITY AND WELL-BEING OF MILLIONS OF TENANT FARMERS.

B- CORRUPTION HAS PROBABLY INCREASED ALONG WITH INFLATION AND THE EXPANSION OF THE PUBLIC SECTOR. CORRUPTION WAS A POPULAR ELECTION ISSUE IN EARLY 1977.

4. RESPONSIBILITY OF GOVERNMENT

THE STRONG INITIAL COMMITMENT OF THE PRESENT GOVERNMENT TO HUMAN RIGHTS IS EXPRESSED IN THE FUNDAMENTAL RIGHTS ENUMIATED IN THE CONSTITUTION. OFFICIAL FAILURE TO RESCIND THE 1971 WAR-INDUCED EMERGENCY PROCLAMATION, EVEN THOUGH PAKISTAN FACED NO IMMEDIATE EXTERNAL MILITARY THREAT, IS REGRETTABLE. (IRONICALLY, THE 1972 SIMLA

ACCORD WITH INDIA BINDS BOTH COUNTRIES TO SETTLE DISPUTES

PEACEFULLY AND IS ROUTINELY CITED AS A MAJOR BHUTTO TRIUMPH.) IN 1975 THE JUSTICIABILITY OF FUNDAMENTAL RIGHTS WAS RESTORED; THOSE CLAIMING THAT GOVERNMENT ACTION UNDER EMERGENCY-ACTIVATED LEGISLATION VIOLATED THEIR FUNDAMENTAL RIGHTS CAN SEEK RELIEF IN THE COURTS. SINCE
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MID-1973 A TRIBAL REVOLT IN SPARSELY-POPULATED BALUCHISTAN AND OCCASIONAL TERRORIST BOMBINGS, MOSTLY IN THE NORTH WEST FRONTIER PROVINCE, HAVE BEEN CITED AS EVIDENCE OF AN INTERNAL THREAT TO PAKISTAN'S INTEGRITY, PERHAPS ENCOURAGED FROM ABROAD. GIVEN THE ISOLATION OF THE AFFECTED AREAS AND SPORADIC OCCURENCE OF REPORTED INCIDENTS, THE APPLICABILITY OF THE TWO SPECIAL COURT ACTS TO THE ENTIRE COUNTRY SEEMS QUESTIONABLE.

A- WHILE OBSERVANCE OF HUMAN RIGHTS IN PAKISTAN IS CLEARLY DEFICIENT IN SOME RESPECTS, THE RECORD IS RELATIVELY GOOD IN THIRD WORLD TERMS. MORE IMPORTANT, THE TREND IN RECENT WEEKS HAS BEEN STRONGLY POSITIVE. UNDER POPULAR AND EXTERNAL PRESSURE, THE GOVERNMENT HAS RELEASED OVER 12,000 DETAINED SINCE THE MARCH 7 POLL FOR UNLAWFUL ASSEMBLY AND OTHER MINOR INFRACTIONS; REPEALED THE PRESS AND PUBLICATIONS ORDINANCE AND ENDED PRIOR PRESS CENSORSHIP; AND AGREED TO HOLD NEW NATIONAL ELECTIONS. ONE HIGH COURT HELD MARTIAL LAW (SINCE RESCINDED) UNCONSTITUTIONAL. CONTINUING NEGOTIATIONS BETWEEN GOVERNMENT AND OPPOSITION REPRESENTATIVES MAY RESULT IN REVOKING THE EMERGENCY PROCLAMATION AND THE RELEASE OF ADDITIONAL POLITICAL PRISONERS. WERE THE UNITED STATES NOW TO RAISE WITH PAKISTAN ITS HUMAN RIGHTS OBSERVANCE RECORD, IT WOULD PROBABLY IDENTIFY THE UNITED STATES WITH BHUTTO'S OPPONENTS, APPARENTLY "PROVING"

FALSE ALLEGATIONS OF U.S. COLLUSION WITH THE OPPOSITION. ACHIEVEMENT OF OUR PRIMARY OBJECTIVE IN PAKISTAN -- CANCELLATION OF ITS NUCLEAR FUEL REPROCESSING PLANT CONTRACT WITH FRANCE -- WOULD BE MADE IMMEASURABLY MORE DIFFICULT. OUR POLITICAL, ECONOMIC, SECURITY, AND DIPLOMATIC INTERESTS IN PAKISTAN ARE OF LESSER IMPORTANCE, BUT WOULD BE NEGATIVELY AFFECTED BY A HUMAN RIGHTS INITIATIVE. THIS EFFORT WOULD PROBABLY BE MISUNDERSTOOD BY THE PRC, IRAN, AND SAUDI ARABIA.

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B- THE GOVERNMENT WOULD BE UNLIKELY TO EXTEND MORE THAN

VERBAL SUPPORT TO U.S. EFFORTS TO PROMOTE HUMAN RIGHTS
OBSERVANCE THROUGH GOVERNMENT OR OTHER ORGANIZATIONS,
EXCEPT IF THESE EFFORTS WERE DIRECTED AT ISRAEL, SOUTH
AFRICA, OR, PROBABLY, INDIA. THE GOVERNMENT'S ATTITUDE
IN THIS REGARD WAS ILLUSTRATED BY THE DECEMBER 1976
ANNOUNCEMENT THAT THE FIRST ANNUAL "QUAID-E-AZAM"
HUMAN RIGHTS AWARD WOULD BE PRESENTED TO PRESIDENT
KAUNDA OF ZAMBIA. THE GOVERNMENT OF PAKISTAN HAS
FORMALLY DISAVOWED FURTHER COOPERATION WITH AMNESTY
INTERNATIONAL.

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